

Report of the Special Committee on Foster Care Adequacy to the 2017 Kansas Legislature

CHAIRPERSON: Senator Forrest Knox

VICE-CHAIRPERSON: Representative Connie O'Brien

OTHER MEMBERS: Senators Molly Baumgardner, Oletha Faust-Goudeau, Robert Olson, and Dennis Pyle (substitute); and Representatives Erin Davis, Willie Dove, Randy Garber, and Jarrod Ousley

STUDY TOPIC

The Committee is to review the following issues pertaining to foster care adequacy:

- Review the level of oversight and supervision by the Department for Children and Families (DCF) over foster care contractors;
- Evaluate whether a working group consisting of attorneys in the area of family law, judges, foster parents, and parents with reintegrated children would aid in addressing foster care concerns;
- Study the proper selection of foster parents and the qualifications of foster parents; and
- Review the duties of those individuals responsible for foster children, the connection between DCF and foster care contractors, and the grandparents rights law regarding custody, KSA 2015 Supp. 38-2286.

Special Committee on Foster Care Adequacy

REPORT

Conclusions and Recommendations

The Committee identified the following as its highest concerns in discussing and adopting its recommendations:

- The response to concerns regarding repeated hotline calls and the follow-up (or lack thereof) to these calls;
- The need for the Department for Children and Families (DCF) to explore performance measures tied to penalties and incentives for contractors;
- The need to gather data on social worker turnover (leaving social work altogether) and churn (leaving DCF and contractors to work for another social work organization);
- The need to find methods to truly verify monthly in-person visits, such as Florida's photo verification that utilizes date, time, and Global Positioning System (GPS) stamps;
- The need to create more state oversight of the foster care system;
- The need to improve family preservation programs even if federal money is not available for such programs;
- The need to ensure children are not being removed from the home and placed in state custody in cases where the only issue is poverty rather than abuse or neglect; and
- The system operate as efficiently as possible.

The Committee adopted the following recommendations:

- A House bill be introduced containing the language of 2016 HB 2585, as amended by the House Committee on Children and Seniors, establishing a foster care oversight task force, with date changes as required;
- The use of citizen review boards (CRBs) be encouraged in child in need of care (CINC) cases and legislative standing committees examine expanding the statutory scope of such boards;
- The right of biological parents and grandparents to visitation with children and grandchildren be affirmed, including visitation in their hometown with children and grandchildren who are in out-of-town placements, with the children's travel expense being the responsibility of the contractor;
- The Legislature address, through standing committees or special committees, the

Legislative Division of Post Audit (LPA) findings on foster care and adoption in Kansas as well as the concerns raised through the audit and the actions being taken by DCF to address those concerns;

- DCF investigate the value of additional vendors for foster care programs;
- DCF report annually to a standing committee of the Senate and a standing committee of the House; and
- The Legislative Post Audit Committee consider addressing the Special Committee's concern regarding the low response rate to the LPA survey of public employees and employees of contractors in the foster care and adoption audit.

Proposed Legislation: The Committee recommends introduction of a House bill containing the language of 2016 HB 2585, as amended by the House Committee on Children and Seniors, establishing a foster care oversight task force, with date changes as required.

BACKGROUND

The Legislative Coordinating Council (LCC) in 2016 again appointed a Special Committee on Foster Care Adequacy, composed of seven members. The Committee was tasked by the LCC to review issues pertaining to foster care adequacy as follows:

- Review the level of oversight and supervision by the Department for Children and Families (DCF) over foster care contractors;
- Evaluate whether a working group consisting of attorneys in the area of family law, judges, foster parents, and parents with reintegrated children would aid in addressing foster care concerns;
- Study the proper selections of foster parents and the qualifications of foster parents; and
- Review the duties of those individuals responsible for foster children, the connection between DCF and foster care contractors, and the grandparents rights law regarding custody, KSA 2015 Supp. 38-2286.

The Committee was granted two meeting days by the LCC and met on November 16 and 17, 2016.

COMMITTEE ACTIVITIES

The Committee held all-day meetings on November 16 and 17, 2016.

On November 16, the Chairperson began by making introductions and reviewing the Committee's charge. In response to a question, the Chairperson explained the goals of the Committee would be to assemble information that would be useful in addressing foster care issues moving forward and to make recommendations for how to move forward, including any legislation the Committee desired. The Committee then received an overview of the work, recommendations, and report of the 2015 Special Committee on Foster Care Adequacy from Kansas Legislative Research Department (KLRD) staff.

Review of the Legislative Division of Post Audit Report on Foster Care and Adoption

A Legislative Division of Post Audit (LPA) staff member provided the Committee with a review of the latest LPA performance audit report on foster care and adoption in Kansas. The report will be issued in three parts. Part One was issued in July 2016. Part Two was issued in September 2016. Part Three will be issued in early 2017.

Part One of the report dealt with three questions. Question One was whether DCF was following adequate policies and procedures to ensure the safety of children during the removal and placement process. With regard to this question, LPA found:

- DCF had not yet implemented several recommendations for its child protective services (CPS) function and had not responded to all report center calls in a timely manner. As of May 2016, DCF had implemented 1 of 9 safety-related recommendations from a 2013 Casey Family Programs assessment of CPS function, and a child's safety was not assessed timely in 5 of 40 investigations reviewed by LPA;
- DCF had not ensured that background checks of individuals in foster homes happen as often or as thoroughly as they should. Three types of background checks should occur, and they should occur for both relative and foster placements;
- DCF had not always taken steps to ensure monthly in-person visits happened for children in foster care or adoptive homes or for children reintegrated with their families. LPA noted that in most of the cases reviewed, poor documentation prevented LPA from being able to tell whether case management contractors and child placing agencies (CPAs) conducted some monthly visits. Monthly in-person aftercare visits of children in adoptive placements did not occur, likely because DCF's contracts and policies are not consistent; and
- Survey respondents expressed concerns with staff turnover, morale, and training.

In response to questions regarding the response rate for the survey, LPA staff indicated there was a 37 percent response rate from case workers and a lower response from guardians *ad litem*. LPA staff indicated this was consistent with, if not higher than, the response rate for surveys of this type, but the results could not be extrapolated to apply to non-responders. LPA staff indicated

there was no requirement for employees to respond.

LPA recommendations for issues identified through Question One included completing the recommendations from the 2013 assessment for the report center; reviewing policies regarding assessment of child safety and welfare; implementing procedures to ensure assessment within the time assigned following a report center call; ensuring background and registry checks are completed annually; reconciling statutory and regulatory requirements for fingerprint-based checks of all persons residing, working, or volunteering in a foster home; ensuring persons in a foster care home who are ten years of age or older have annual background and registry checks; providing staff training on revised policies; considering annual background checks for relative placement; and regularly monitoring a sample of cases to ensure monthly in-person visits are conducted and considering penalties for non-compliance.

Question Two was whether DCF's child placement process helps ensure children are placed in foster care or adoptive homes with sufficient living space and sufficient financial resources. With regard to this question, LPA found:

- DCF allowed nearly all requests for exceptions (98 percent of approximately 1,100 such requests during one 15-month period), resulting in inadequate sleeping space for some children in foster care;
- DCF did not have an adequate process to ensure licensed foster homes have sufficient financial resources. Current laws and policies are vague with regard to this requirement, and DCF did not verify income information. LPA recommends the requirement be clarified;
- There are few requirements related to capacity, living space, or financial resources for adoptive placements, but few stakeholders had concerns; and
- CPAs both sponsor foster homes and regulate them, which may create a conflict of interest.

LPA recommendations for issues identified through Question Two included ensuring exceptions are thoroughly reviewed and only granted when in the best interest of the child, clarifying the regulatory requirement for “sufficient financial resources,” and developing policies and a process to better obtain and verify detailed financial information.

Question Three was whether DCF’s criteria for recommendations regarding the removal and placement of children are designed with a family preference. With regard to this question, LPA found that several aspects of the foster care and adoption system are designed to keep family members together, mainly due to federal requirements. Most stakeholders indicated there was an appropriate emphasis placed on this, but some indicated there was too much emphasis.

Part Two of the report dealt with Question Four, which was whether DCF ensures all applicable state and federal laws governing the foster care system in Kansas are followed. With regard to this question, LPA found:

- DCF had not followed some of the safety and living condition requirements reviewed in Part One of the audit, including some background checks, monthly case-management visits, and financial resource requirements;
- According to 2014 and 2015 statewide single audits, DCF materially complied with most, but not all, federal requirements. The areas with issues involved DCF controls related to monitoring and paying the contractors;
- DCF self-reported data shows Kansas met or exceeded about half of federal outcome requirements for FY 2016. DCF consistently met requirements related to relative and sibling placements, but did not consistently meet requirements related to timeliness or stability; and
- DCF must implement a program improvement plan (PIP) to address issues identified by a 2015 Child and Family Services Review (CFSR).

Part Three of the report, to be issued in 2017, will address three questions related to privatization:

- Do foster care contractors have sufficient capacity to provide necessary foster care services;
- Has the privatization of foster care and adoption significantly affected outcomes for children and families; and
- Has the privatization of state foster care and adoption significantly affected the cost of those services to the State?

In response to a question regarding federal funding, KLRD staff provided a breakdown of foster care funding for FY 2011 through FY 2016. For FY 2016, federal funding for Kansas foster care services totaled \$59,385,408 and state funding consisted of \$86,497,056 from the State General Fund and \$7,736,581 from the Social Welfare Fund (fee fund).

Overview of Kansas Foster Care System: Authorizing Statutes, Revised Code for Care of Children, Time Line, Recent Activity

The Committee next received an overview from KLRD staff of the authorizing statutes for DCF related to the foster care system and the child in need of care (CINC) process, which may lead to the initiation of foster care services, and those individuals who are required to report to DCF any suspicion a child may be a CINC (“mandatory reporters”). Next, the CINC investigation and placement process was reviewed, followed by general information on Kansas foster care contractors and payments and funding. Staff referenced the KLRD *Kansas Legislator Briefing Book* article on “Foster Care Services and Child in Need of Care Proceedings” for a detailed overview of the CINC process.

Staff also presented a historical time line of the foster care system, including the establishment of the State Board of Social Welfare in 1937, enactment of the Kansas Code for Care of Children in 1982, privatization of the foster care system in 1996 and 1997, and transfer of foster

care licensing responsibilities from the Kansas Department of Health and Environment (KDHE) to DCF in 2015.

Staff next presented a chart summarizing legislation involving foster care and related issues introduced from the 2011 Session through the 2016 Session, as well as related studies by the Kansas Judicial Council and some agency and other stakeholder actions during that period.

Grandparents Rights Overview

KLRD staff next provided the Committee with an overview of grandparents' rights provisions in Kansas statutes.

First, staff reviewed the requirement in KSA 2015 Supp. 38-2286, in the Kansas Revised Code for Care of Children (CINC Code), that a grandparent requesting custody of a child receive substantial consideration by the court when evaluating what custody, visitation, or residency arrangements are in the best interest of a child removed from the custody of a parent and not placed with the other parent. The statute requires the court to consider several factors in making this evaluation and to state the evaluation on the record. If the court places the child in the custody of the Secretary for Children and Families (Secretary) for placement, a grandparent requesting placement must receive substantial consideration for placement by the Secretary, with similar requirements as those listed above for the court. These provisions were added to the statute by 2012 SB 262.

Next, staff reviewed the requirement in KSA 2015 Supp. 38-2241, also in the CINC Code, that automatically makes grandparents an interested party in a CINC proceeding, with the participatory rights of parties and access to the proceedings and the child's official file. House Sub. for SB 23 (2011) amended this statute to make a grandparent an automatic interested party by removing a requirement that a grandparent notify the court to become an interested party.

Finally, staff noted the Grandparents as Caregivers Act, KSA 2015 Supp. 38-142, *et seq.*, established in 2006 to provide monetary assistance to certain grandparents who have custody of their grandchildren, and KSA 2015 Supp. 23-3301,

which provides that grandparents and stepparents may be granted visitation rights in divorce proceedings. A 2015 Kansas Court of Appeals decision held that visitation rights also may be granted in a paternity action.

Judicial Perspective

The Honorable Jean Schmidt, retired Shawnee County District Court Judge, provided her perspective on CINC cases and the foster care system. She noted the power of a judge in CINC cases is not complete, but rather the judge has the obligation to make a decision where there is a disputed issue. Her practice was generally to place a child in DCF custody and let them make the placement decision, unless an issue required placement by the court. While she would try to place children with grandparents, sometimes DCF would inform her a grandparent was on the DCF central registry. This could arise from a variety of circumstances, including if the grandparent had used a belt for corporal punishment with an older child. When children were placed with grandparents directly at a temporary custody hearing, there were not always services available for the grandparent. Judge Schmidt stated another challenge for a grandparent can be that decisions are often made at case planning meetings, where the grandparent might not be present. Due to the size of the CINC docket in Shawnee County, a grandparent's best opportunity to provide input may be at the case management conference. If a grandparent was not aware of the case management conference, Judge Schmidt would try to delay the case and hold another case management conference the grandparent could attend.

In response to questions, Judge Schmidt noted CPS is somewhat detached from the foster care placement process due to the privatization of foster care services; there may be valid reasons for subsequent social workers on a case to disagree on the ultimate outcome of the case, particularly where there might have been allegations of abuse and one side of the family has lined up with the accused while the other has lined up with the accuser; "best interests of a child" can be difficult to define, so practically her focus was on what would be least damaging to the child; and citizens' review boards (CRBs) could be more useful in rural areas.

Next, the Committee heard from the Honorable Dan Cahill, Wyandotte County District Judge and chair of the Supreme Court Task Force on Permanency Planning. Judge Cahill noted the CINC Code may be applied differently in different areas of the state due to issues unique to rural areas versus urban areas. He stated court processes have to be able to address each individual case, so it is positive to have flexibility in the Code to be able to address the specifics of each case. His practice is to review each case every three to four months, even though the federal and state requirements are for an annual review. The high number of children in care in Kansas places stress on each part of the child welfare system, so a greater emphasis on prevention could help relieve some of this stress. He stated it also would help to devote greater resources to improving the work environment for social workers and other factors that could increase retention of social workers, and increasing the availability of services to families and the number of foster homes would improve the functioning of the system.

In response to questions, Judge Cahill noted performance standards in contracts should take into consideration variables that may not be easy to put down on paper, and that the emphasis on keeping families together in the child welfare system is positive unless a family placement is going to be very detrimental to the child.

Next, a Court Appointed Special Advocates—Colorado volunteer and community organizer for Wyandotte and Sedgwick counties addressed the Committee regarding concerns raised in her communities. She urged the resignation of the Secretary and the ending of privatization of foster care services. She expressed concern regarding over-medication of children in foster care. She recommended notification of parents or legal guardians before foster care placement occurs and timely background checks of and parenting classes for foster care parents before receiving placements. The conferee recommended placement in a child's home county and improved visitation opportunities for biological parents. She asked that family member placements receive priority and expressed concerns regarding the KVC facility in Wyandotte County and cases in which children are in foster care for a long period of time or are transferred between many foster homes. Finally, she urged better support for

children who age out of the system and assurance that courts will properly apply the laws regarding grandparents and foster care.

Agency Overview

The agency overview began with a presentation by the Secretary. The Secretary reported there were 6,735 children in foster care/out-of-home placement in Kansas as of September 30, 2016. In about 60 percent of these cases, the children will be returned to their home. DCF strives to have an ample supply of foster homes available so children can remain in their home communities and schools. DCF attempts to maintain children's connections to their relatives, culture, and community when in out-of-home placements. She stated relatives receive first consideration as a placement option, followed by family foster homes. Approximately 35 percent of placements are with a relative.

The Secretary stated DCF currently works with two foster care contractors, KVC Kansas and Saint Francis Community Services (St. Francis). Safety is a top priority, and DCF strives to prevent further trauma and abuse of children.

The Secretary reported DCF is attempting to provide opportunities for foster parents to have more of a voice in the process, including through the appointment of a Foster Parent and Youth Ombudsman in June 2014 to address concerns of foster parents and youth in (or previously in) foster care.

The Secretary explained if reintegration cannot be achieved, DCF works to ensure permanency through adoption or permanent custodianship. DCF collaborated with the Kansas Children's Service League (KCSL) to launch the Kansas Post Adoptive Resource Center to provide post-adoptive support to adoptive families, including those who adopted out of the child welfare system.

The Secretary stated DCF's focus moving forward includes continuing to address sensible regulation and policy changes, strengthening recruitment of foster and adoptive parents, reforming licensing to encourage quality homes and families, further promoting permanency, focusing on providing the best possible homes for

children in custody, looking at the front end of the system to improve prevention and reporting of abuse and neglect, and implementing strategies and incentives to better recruit and train child welfare staff. With regard to the latter, the Secretary noted DCF appreciates the Legislature's willingness to fund pay increases for child welfare workers in Kansas.

The Secretary then provided additional details regarding various aspects of the child welfare system. She outlined DCF's role in combating human trafficking of minors, including providing assessments, placement, and services for victims. She then reviewed the role of the Kansas Protection Report Center (KPRC), which receives reports of abuse/neglect of children and abuse/neglect/exploitation of adults. KPRC has locations in Topeka and Wichita and accepts reports 24 hours a day, 7 days a week. In FY 2016, there were 67,642 completed child reports by KPRC intake specialists and 16,687 completed adult reports. The position of *intake specialist* is being phased out through staff attrition and is being replaced by the position of *intake protection specialist*, which will have a higher minimum requirement of a bachelor's degree in social work or a related human services field, with a preference of bilingual (English/Spanish). Next, KPRC *specialists* must be licensed professionals through the Behavioral Sciences Regulatory Board (BSRB), and their responsibility is to complete initial assessment decisions on reports of abuse and neglect to determine the agency response. Finally, KPRC *protection specialists* review the report to determine if it will be assigned for further assessment. The report may be "screened out" if it does not meet statutory requirements, the incident occurred in another state, or DCF does not have statutory authority to investigate. If the report meets the criteria for investigation, it is sent to the appropriate DCF region's queue for assignment to an adult protection specialist or child protection specialist. Upcoming KPRC improvements include updating the continuity of operations plan, replacing intake specialists with intake protection specialists, adding KPRC to the Office of Customer Service Manager tracking system, and following up on recommendations from a recent internal KPRC audit.

The Secretary then reviewed recent changes to the Prevention and Protection Services (PPS) case

finding structure. For cases assigned on and after July 1, 2016, PPS will use an unsubstantiated/affirmed/substantiated structure with a "preponderance of the evidence" standard of proof. This lowers the standard of proof from "clear and convincing" and adds an "affirmed" category to the case finding structure where PPS determined abuse or neglect occurred but it does not meet the criteria for substantiation.

Next, the Secretary reviewed the foster care and adoption program, administered by the two contractual providers across four DCF regions. She listed 12 major federal acts that contain mandates for DCF. DCF passed its last Title IV-E foster care audit, and the next will occur in Spring 2017. DCF passed a round two PIP in a CFSR, completed a round three review, and is currently in the PIP approval process. For children in out-of-home placement, DCF has reduced the congregate care rate from 67 percent in 2000 to less than 6 percent in 2016. The Secretary reviewed federal grants and technical assistance DCF is receiving or has previously received and listed 12 child welfare-related workgroups with which DCF is currently collaborating.

The Secretary reported on adoption resources provided by DCF, partnerships with faith-based and community initiatives, and the Kansas Child Welfare Professional Training Program, which will provide joint training for DCF and provider staff beginning in January 2017. She noted Kansas' increase in foster care numbers is similar to the national trend and Kansas' foster care goals include increasing the number of foster families who can best meet specific needs of children and youth, increasing the number of adoptions of children on the Kansas Adoption Exchange, reducing the time to permanency, and implementing the Kansas Child Welfare Practice Model.

The Secretary reported that physical neglect is the most frequent reason for removal. Relative placements are found for 33.00 percent of children removed, while 5.70 percent are placed in a group/residential placement. There is a permanency plan to reintegrate for 56.28 percent, and 1,183 children have a permanency goal of adoption (and thus are awaiting adoption). A majority of these have an identified adoption resource, while about 350 are on the Adoption

Exchange (with no resource identified). The Secretary then provided statistics and trends related to reports, removals, adoptions, and safety.

Finally, the Secretary reviewed the independent living program for youth transitioning from foster care, which provides these youth with support and guidance while navigating the path to successful adulthood. She outlined the transition planning process and reviewed the core components of the program (including a medical program, independent living subsidy, vehicle repair and maintenance, and education assistance), as well as the services that may be provided through the program (including housing and skill development). After providing participation and outcome statistics and program successes, she noted the goals for the program in the future include changing the conversation regarding aging out of foster care and completing post-secondary education, encouraging youth to pursue their goals by breaking them down into measurable tasks, increasing community collaboration to support self-reliance, integrating trauma-informed and strengths-based principles into practice and staff training, and exploring the extension of foster care for older youth.

In response to questions regarding what steps DCF had taken since the audit to complete the recommendations from Casey Family Programs and what changes had been made to training, the Secretary noted that subsequent DCF speakers would address DCF's response, but some of the steps had included raising salaries and asking contractors to raise salaries, attempting to fully staff the caseload and reach the national standard, and improving efforts for recruitment and retention. She also noted a chart provided by DCF listing the various recommendations and DCF's date of completion or projected date of completion for each recommendation. With regard to the Casey Family Programs recommendations, the Secretary stated it was unclear whether some of the items were related to information gathering or actual recommendations for completion.

In response to questions regarding training for subcontractors and barriers to foster parent recruiting, the Secretary stated the Licensing Division has been working to address these issues since its transfer to DCF from KDHE. She invited

legislators to come visit with her regarding these or any other concerns.

Next, the Director of PPS at DCF provided the Committee with information regarding relative/kinship placement. DCF and its contractors recognize the value of relative and kinship placements, when such placements may be safely made, and are committed to the continued exploration of relative placements. The federal standard for children placed with relatives is 29 percent, and Kansas' rate in FY 2016 was 32 percent. Relatives are defined as persons related by blood: a parent, grandparent, sibling, great-grandparent, uncle or aunt, nephew or niece, great-great grandparent, great uncle or aunt, first cousin, great-great-great grandparent, great-great uncle or aunt, or a first cousin once removed (child of a first cousin). Additionally, persons related to the child through marriage or previous marriage, legally adoptive parents and relatives of those parents, and birth parents, adoptive parents, or court-appointed guardians or permanent custodians of a sibling or half-sibling would also be counted as relatives. Non-related kinship is defined as an adult with whom the child or child's parent has a close emotional attachment or ties, and could include a teacher, coach, family friend, or member of the family's church.

The Director stated relative placements are identified by case workers asking questions about the family's makeup and the DCF worker attempting to identify relative options. At the time of removal, DCF provides all relative information to the contractor. Persons identified as potential relative placements go through fingerprints, background checks, a DCF history search, and a home walk-through. The child may be placed with this relative if there are no concerns raised by these checks. If the person is a kinship placement, the person also would be required to become licensed as a foster parent. If relatives learn of a child's removal after some time has passed and contact DCF, DCF facilitates contact between the relative and the contractor.

The Director explained several factors may limit the informal, voluntary placement of a child in a relative's care prior to the child entering state custody, including a lack of authority for DCF to require such placement, a parent's failure to recognize possible harm to a child, parental

unwillingness to allow a voluntary placement, and parental refusal to provide a relative with the necessary authority for that relative to provide adequate care for the child.

Judges may place a child who is in police protective custody (PPC) into DCF custody at a temporary custody hearing without considering a relative option. In these emergency situations, there is often not enough time to determine whether a relative is available.

A member of the Committee noted she continues to hear concerns from grandparents and fathers who have not been contacted for placements or have been denied placements.

Next, the Director presented part of the DCF response to issues raised by the LPA report on foster care. DCF has developed an implementation plan to address the LPA recommendations. Regarding monthly in-person visits, DCF has revised policies that will be effective January 2017 and has established a Child Welfare Compliance Unit for ongoing audit-level monitoring of contractors and staff. DCF also started Documentation Training 101, which all DCF, contractor, and CPA staff will have to take by December 30, 2016.

The Director reported DCF continues to implement recommendations made by Casey Family Programs. The Practice Model document is being approved by the DCF Executive Team and will be rolled out in January 2017. Many new changes have been made to the KPRC, including requiring four-year degrees for new hires in the human services arena.

DCF has identified categories to move from non-abuse and neglect in response to recommendations from federal partners and Casey Family Programs, but these changes will take time due to IT system changes. DCF is currently identifying the best safety/risk assessment with Casey Family Programs' assistance and plans to implement this tool by July 2017.

Finally, the Director stated DCF has been substantially updating and revising agency policy. In January 2017, there will be more than 120 new policies in PPS that incorporate best practices for

adoption, intake, investigation/assessment, foster care, family services, and family preservation. The Director reviewed some of the specific policy changes related to monthly in-person visits.

In response to a question regarding why some 2013 recommendations had not yet been implemented, the Director stated a number of the Casey Family Programs recommendations had been implemented, but the scope of the LPA audit focused on several that had not. Casey Family Programs has been interacting with DCF on an ongoing basis. A Committee member commented that new policies will not fix problems if there were old policies not being implemented.

Next, the Deputy General Counsel for DCF presented the DCF response to licensing issues raised by the LPA audit on foster care. He reminded the Committee the Licensing Division was brought to DCF from KDHE via Executive Reorganization Order (ERO) 43 in July 2015 for the purpose of implementing improvements in process and enhancing child safety. The DCF Licensing Division worked closely with LPA to closely examine the program.

The Deputy General Counsel noted while the LPA report recommended background checks be run on an annual basis, there is no legal requirement for annual background checks. However, because more frequent background checks are good policy, DCF implemented requirements in August 2016 for annual background checks to be run on every person ten years of age and older who is affiliated with a foster home at the time of application or renewal. Fingerprint background checks will be required for the same individuals, and DCF is working with the Kansas Bureau of Investigation (KBI) to enroll every person ten years of age and older (other than children placed in the home) in a monitoring service that will immediately alert DCF anytime someone in the home is arrested or convicted of a crime. DCF anticipates full enrollment in this new system by January 2017.

Regarding LPA's finding that the Licensing Division was not adequately verifying foster family financial resources, the Deputy General Counsel stated DCF implemented a policy advisory on September 1, 2016, requiring foster

parent applicants to undergo a financial assessment at the initial licensing survey and an annual reassessment of financial status. In light of this new policy, the Licensing Division has been attempting to address concerns raised by foster parents regarding extensive documentation of family expenses.

Regarding LPA's finding that a conflict of interest may exist with CPAs inspecting their own homes, the Deputy General Counsel stated the Licensing Division is considering the necessary steps to assume the function of the annual inspection of the nearly 3,000 foster homes in the state. DCF also is working to transition from payment based on a case-rate system to a system where payment is based upon the actual costs of taking care of children, which should give DCF greater control over payments to contractors and CPAs and improved oversight. DCF also is addressing the apparent conflict of interest in the number of exceptions granted to regulations limiting the number of children in foster care in a single home. While regulations limit the number of children in foster care to four in any one home, CPAs routinely ask to exceed that, often for the stated purpose of keeping sibling groups together. DCF is now trying to ensure CPAs do not exceed capacity regulations if there might be a different home available that has room, including a home affiliated with a different CPA.

Finally, the Deputy General Counsel stated the Licensing Division is working to improve access to data systems, previously limited due to the separation of functions between KDHE and DCF, to be able to see where there is availability in the system so that requests to exceed capacity may be denied and children can be referred to a home with capacity. DCF gathered information from Wisconsin, which uses a computer system with robust capabilities for this purpose, and has implemented this system, which can plot on a map the location of foster homes and the school districts in which the homes are located. Soon, DCF will be able to synchronize the data regarding home capacity from KDHE into this system.

In response to a question regarding the age of foster home residents who will be fingerprinted and the possible effect on foster family recruiting, the Deputy General Counsel acknowledged the

concerns and stated there has been an overwhelmingly positive response so far.

For the final part of the agency overview, the DCF Assistant Director for Legal Services presented information regarding foster care and the judiciary. The Assistant Director stated there are six protective factors incorporated in all aspects of the child welfare system, which contractors are required to integrate and implement in their services. These factors are nurturing and attachment; knowledge of parenting and child development; parental resilience; social connections; concrete support for parents; and social and emotional competence of children.

The Assistant Director noted the CINC Code sets forth Kansas' policies for children in the State's care, and she then provided an overview of the roles of various entities in the removal of a child and the CINC process. Due to law enforcement testimony before the 2015 Committee, PPS staff met multiple times with the Kansas Department of Corrections (KDOC) Juvenile Intake and Assessment Services (JIAS) staff and law enforcement representatives to improve timely information sharing between law enforcement, the KPRC, and JIAS, especially relating to time-sensitive decisions that need to be made when children are in PPC.

The Assistant Director stated foster care services are provided when a court determines a child is a CINC and the parents are not able to meet the safety needs of the child. When the court places the child in the custody of DCF, DCF is given authority for placement, which becomes the responsibility of the two private agencies that currently contract with DCF. Federal and state law and PPS policies require preference for placement with relatives, then non-related kin, if the parents are not a safe placement. Most children in Kansas are placed with relatives or in licensed family foster homes, although some children may require more structured settings, such as a group home or residential facility.

The Assistant Director stated the courts play a vital role in the CINC process, and the Kansas Supreme Court Task Force on Permanency Planning and the Kansas Judicial Council Juvenile Offender/CINC Advisory Committee both meet

regularly to discuss important issues related to CINC cases. DCF is represented on both of these groups. Due to the uniqueness of each individual CINC case, there may at times be decisions in one court that appear disparate with a decision in a different case. In addition to the federal and state laws already outlined, other laws, such as the Indian Child Welfare Act or Interstate Compact for Placement of Children, also may be applicable in certain cases, increasing the complexity of the case.

In response to a question regarding when custody of a child is transferred from DCF to a contractor, the Assistant Director noted legal custody is never transferred from the Secretary to a contractor. In response to a question regarding rapid or multiple changes of placement, the Assistant Director stated outcome measures and best practices dictate that a child be moved from one home to another as rarely as possible, but they do occur in certain cases. She stated DCF has a legislative liaison and when legislators contact DCF with questions or concerns regarding specific cases, DCF staff try to provide what information they can under the relevant privacy and disclosure laws. DCF also welcomes meetings with legislators to discuss concerns and questions.

Legislator Views

Representative Jim Ward, District 86, appeared before the Committee to express strong concerns regarding the death of four children while in DCF custody or after intakes of concern to DCF. He reviewed the history of his request for a post audit investigation of DCF protective services, the subsequent investigation, and the deficiencies found by the investigation. He noted that custody is not a legal technicality, and DCF stands *in loco parentis* for children placed in DCF custody, with the same responsibility for protection as the parent. He requested the Committee consider making the following recommendations to the Legislature:

- A special committee be created for the oversight of DCF Child Protective Services;
- The new special committee be charged with ensuring DCF takes sufficient

corrective action on the deficiencies discovered in the LPA investigations; and

- The new special committee investigate and make recommendations on the adequacy of the DCF budget for purposes of carrying out its legal responsibility to provide for the safety and protection of abused and neglected children.

In response to a question regarding his thoughts about fingerprinting children as young as ten years old in a foster home, Representative Ward stated it would not be necessary in a perfect world, but through his experience in juvenile court, there are children as young as ten years old whose behavior should raise caution flags.

Foster Care Contractors: Effectiveness and Oversight

The Committee began this topic by hearing from the Chief Clinical Officer for KVC Health Systems (KVC), the parent company of KVC Kansas. The Chief Clinical Officer noted KVC had served as a lead contractor for foster care since 1996. He outlined the oversight system, which includes federal oversight through U.S. Department of Health and Human Services CFSRs; state oversight through DCF administrative reviews, case file reads, and audit services; regional and community accountability through regional DCF and contractor meetings, community advisory boards, and foster parent advisory boards; and quality and fiscal accountability through systemwide financial audits and The Joint Commission (TJC) accreditation. He provided a list of various data KVC submits to DCF on hourly, daily, weekly, monthly, quarterly, and as-needed bases. KVC maintains an extensive, networked database that generates 691 automated monitoring reports at various intervals. Additionally, reports can be individually queried from KVC's database for research and training purposes. He then reviewed various internal monitoring tools and human resource monitoring tools utilized by KVC, including multiple background and registry checks.

A representative of St. Francis stated St. Francis' service design centers on practices that are family-centered, community-based, evidence-based, and trauma-informed. She highlighted four

aspects demonstrating St. Francis' commitment to family-centered care:

- Family engagement standards;
- Tools and trainings for effective family and child assessment;
- Case planning techniques targeted to the assessed needs of the children and families; and
- Service delivery that meets the needs of the child and family in a skills-based and targeted manner.

The St. Francis representative continued by providing details, examples, and resources for each of these four components. She noted St. Francis' focus is on permanency.

Another representative of St. Francis then presented information to the Committee regarding service and legal oversight. She noted oversight, accountability, and monitoring occurs at the individual child level, the local level, the state level, and the federal level.

Judicial oversight occurs through Kansas courts' supervision of every child in foster care and application of federal laws, such as the Adoption and Safe Families Act (ASFA) and the Health Insurance Portability and Accountability Act (HIPAA), and state laws, such as the CINC Code. Courts hold adjudication, review, and permanency hearings in each case. Contract standards establish processes and protocols to ensure courts are receiving necessary information from the contractors, and local and community practice standards may exist that require certain communications. Guardians *ad litem* conduct independent investigations and advocate in the best interests of their child clients. Volunteer or court-appointed entities, such as Court Appointed Special Advocates (CASAs), CRBs, or multi-disciplinary teams, may provide additional monitoring. The Office of Judicial Administration ensures local court systems are trained and implementing the requirements of state and federal laws.

Oversight from the executive branch of state government also occurs through BSRB licensure and oversight of social workers, as well as similar licensure and oversight of other professionals by their respective licensing bodies.

St. Francis maintains accreditation through TJC and has several internal monitoring processes, including an internal department that reviews quality of services to individuals and families and attempts to improve identified needs. A number of relevant reports are generated at different intervals to help assess performance of the system. St. Francis also has risk management and customer care processes.

The Kansas Legislature provides oversight through legislator inquiries, legislative post audits (36 of which have occurred since privatization), and standing, special, and interim committees, as well as the budget process.

Next, the Director of PPS at DCF reviewed DCF's oversight of foster care contractors. DCF is responsible for monitoring the safety and well-being of children in foster homes and the progress the children are making toward permanency. Contractors must exhibit clear communication and relationships with relative providers, foster families, other CPAs, and DCF. Providers must establish local advisory boards to receive local input. Under the new contracts, placements, case plans, and case plan goals are subject to DCF approval, and contractors are to notify DCF in advance of placement changes (except in emergencies).

The Director of PPS stated contractors are required to provide aftercare to families following permanency through reintegration, attempt to have monthly in-person visits, and submit progress reports to DCF.

DCF reviews and monitors accountability of contractors through direct oversight, case read processes, and administrative site visits. If a problem is identified, the contractor must develop a corrective action plan (CAP) approved by DCF.

Foster care and adoption case management contract performance outcomes and success

indicators conforming to federal measurements are used to measure contractors' effectiveness.

In response to LPA's identification of concerns related to DCF oversight of reintegration/foster care/adoption and family preservation services, foster care licensing, and contractors and services, plans are underway to strengthen monitoring of child welfare contractors by DCF staff.

The Director of PPS reported DCF is resuming child welfare contract and system monitoring within DCF Audit Services, including both fiscal and program reviews. Planned audits will review the actual costs of providing services of the child welfare contractors and the CPAs, and rates will be set based on these audits to ensure most federal and state funding is being spent on direct services for children and families. Audit Services also will monitor contract outcomes and contract performance outcomes and will perform case reads to ensure contractors are meeting DCF expectations. Finally, Audit Services audits the performance of DCF staff involved in foster care, reintegration, and adoption and family preservation.

A representative of FosterAdopt Connect testified about her concerns regarding lack of transparency and clarity, conflict of interest, and child placement issues. She noted her organization's difficulty in locating the actual current contracts between the State and St. Francis and KVC, as well as any specific information regarding the expectations of the two contractors and a clear description of how services are to be provided or outcomes reported. Placement decisions seem to involve a conflict of interest as there is a financial incentive for contractors to make placement in the contractors' own homes a priority. This can lead to children being placed outside of their home community, away from their family and school, and possibly increase difficulty in areas such as practicing the child's religion or splitting up siblings.

The representative noted the complexity of the Kansas child welfare system and the existence of a placement tool developed by the University of Kansas Social Work Department called E-CAP (Every Child a Priority), which is designed to make placements in the best interests of the child

and avoid any apparent financial incentives for involved organizations. She requested there be itemized outcomes that are measurable, clear, and concise, and stated a workgroup may be able to help with guidelines, depending on the structure of the workgroup.

Finally, a private citizen presented her personal story regarding difficulties in working with St. Francis to maintain her relationship with her granddaughters while they were in foster care, including efforts to obtain visitation with her granddaughters. She expressed concerns regarding the number of foster homes one granddaughter has been placed in and her granddaughter's safety while in foster care, as well as her inability to obtain information from St. Francis regarding her granddaughter's status.

Next, the Committee addressed questions to the conferees who testified during the contractors topic.

In response to a question regarding testimony by the CASA—Colorado volunteer/community organizer that the KVC director received a \$750,000 salary, KVC representatives stated no one at KVC receives that salary and the KVC Kansas president has a salary of about \$120,000.

In response to a question regarding monthly visits and whether there was any clawback provision for refund of money for services not performed, a DCF representative stated she was not aware of a clawback provision. Representatives of KVC and St. Francis stated the monthly visits had been occurring but there was a documentation issue that has been addressed. Pre-populated fields had given the appearance that separate visits were not occurring, even when they were. A KVC representative reported that over 90 percent of their visits occur each month. A DCF representative stated DCF oversight of contractors was very involved at the beginning of privatization but was very hands-off immediately prior to the current administration. This administration has increased oversight, but LPA concluded more oversight is still needed.

In response to a question regarding why the DCF staff response rate to the LPA survey was 37 percent and why responses were not mandatory,

DCF representatives stated the survey was conducted by LPA according to LPA procedures, and DCF had no involvement other than being aware the survey was occurring. DCF tried to respond as quickly and fully as possible to any requests for data or other information from LPA. The Chairperson noted LPA operates as an independent auditor with a large amount of authority, and it is unknown whether they would even want a survey response to be mandatory. The Committee member who asked the question stated the individuals surveyed in this audit had a large influence in people's lives, and if they could not be mandated to respond, someone should be held responsible.

In response to a question regarding placement after initial referral to St. Francis, a St. Francis representative stated the child may go initially to Wichita Children's Home in the city or to a relative or emergency foster care in a more rural setting.

In response to a question regarding the increased rate of removals, a KVC representative stated several issues are converging at the same time. Neglect and substance abuse are increasing. Service delivery in some communities is more difficult.

A Committee member requested DCF provide the Committee with the latest CSFR PIP once it is available. He also provided the Committee with charts showing 50-state information for change in numbers of children in foster care from 2014-2015, FY 2015 entry rates, and infants entering care with parental drug abuse as the reason for removal.

Status of Privatization in Kansas and Other States

For the first topic of the November 17 meeting, the Committee first heard from a National Conference of State Legislatures (NCSL) staff member, who presented a child welfare privatization overview and trends. After reviewing the initial goals and challenges of privatization, she noted different states have implemented different levels of privatization, including by geographic region, target population, and service type (recruiting and reunification, residential treatment and family support, and special needs

adoption services). No state privatizes intake or investigation services. States also have varying decision-making systems, including systems where the public agency retains legal case management and private providers make all day-to-day decisions, systems where day-to-day decisions are shared with the public agency, and systems where there are overlapping responsibilities.

Contract types also vary between states. Some have a lead agency, and some have service-specific contracts. States are moving toward performance-based contracting, including financial incentives and penalties and benchmarks.

The NCSL staff member presented a chart of the different levels of child welfare case management privatization throughout the states. Two states, Kansas and Florida, have statewide privatization of all case management services. Three other states have large-scale privatization of case management services. Eight states have small-scale privatization providing case management services for a subset of children in a limited geographic region. Thirty-two states are not currently privatizing case management.

The NCSL staff member then reviewed specific privatization efforts in Florida, Nebraska, Illinois, Missouri, Michigan, Texas, and Georgia. She noted recent developments include Nebraska moving away from privatization; Florida keeping the model and implementing many child welfare reforms in recent years due to safety concerns, using predictive analysis and data mining; Illinois changing the caseload ratio for payment purposes; and Tennessee beginning to compare provider outcomes against one another to spur new competition.

The NCSL staff member noted there is no rigorous evaluation of statewide performance-based contracting systems. Outcomes may improve, but it can be difficult to determine the role of privatization. She stated key considerations include the following:

- Accountability and oversight:
 - Clearly defined metrics;

- Appropriate incentives and penalties to match goals; and
- Administrative capacity;
- Rigorous evaluation to identify what works;
- Data sharing and data-informed decisions;
- Continuous communication;
- Agency capacity, training, and fiscal stability;
- Clearly defined roles and levels of decision making, including court involvement; and
- Stakeholder engagement, including providers, judicial branch, community service providers, parents, and policymakers.

In response to a question, the NCSL staff member stated that in states with lead agencies, the lead agency is responsible to the state for meeting the contractual obligations, including those of the subcontractors.

A Committee member asked if any other states had followed Florida's lead in requiring case workers to take a photo with Global Positioning System (GPS) information to verify a monthly visit has taken place. The NCSL staff member stated she was unaware of any other state with that requirement.

In response to further questions, the NCSL staff member stated that in states with lead agencies, each lead agency is responsible for a separate geographic region. She noted lawsuits and consent decrees can drive efforts toward privatization, as it did in Kansas, but some states move toward privatization for other reasons.

In response to requests by Committee members, the NCSL staff member subsequently provided the final report and recommendations of the Federal Commission to Eliminate Child Abuse and Neglect Fatalities, and KLRD staff provided a

report from Casey Family Programs titled *An Analysis of the Kansas and Florida Privatization Initiatives*, which was referenced in the NCSL presentation.

A representative of St. Francis provided comments on the history and status of privatization, stating that continuing the public/private partnership is the best way to share the collective responsibility of the child welfare system. She reviewed the state of the system prior to privatization and the factors that led to the decision by the Department of Social and Rehabilitation Services (SRS), DCF's predecessor, to privatize the system (while there was discussion in the Legislature at the time, there was never a vote on privatization, leaving the transition agency-driven). She stated the advantages of the public/private partnership include that it fosters a mutual obligation and addresses a public expectation about state responsibility; more people know about the children in care; there is significant oversight of how the care is delivered, how children and families are served, and the impact of interventions; and service providers working toward outcome goals have to become more innovative and open to new ways to reach safety, permanency, and well-being goals.

The representative noted one of SRS' goals during the privatization transition was to find mission-based, non-profit organizations to provide the services, and the contractors have not made money off the system. She urged stakeholders to consider why so many children are coming into the system. She concluded by noting the work is never done, but St. Francis remains focused on outcome goals.

The Chief Financial Officer (CFO) and general counsel of KVC reviewed KVC's history of providing contract services for the State of Kansas beginning in 1970. In 1997, KVC became one of the original foster care contractors in Kansas. The shift to privatization raised the performance bar by identifying measurable outcomes and contractual requirements with high levels of accountability and monitoring. The KVC CFO reviewed problems that existed before privatization, including overworked social workers, limited family preservation availability, and children rejected by foster care providers or ejected from care. Immediate system

improvements from privatization, required by specific contractual provisions, included no rejection or ejection, a four-hour window to take physical custody, round-the-clock admissions and crisis support, reduction in caseload sizes, expanded family preservation into all counties, identification of measurable outcomes and standards, and development of systems for gathering and maintaining data. Additionally, increased family engagement and high safety rates in family preservation and in foster care were realized within the first four years. Adoptions also increased 78 percent within the first four years.

The KVC CFO next reviewed additional improvements in the areas of adoption, foster family licensing, information systems, evidence-based practice tools and methodologies, and medication monitoring. Since 2000, over 99 percent of children in foster care have not been maltreated.

After providing a lengthy list of additional advantages and benefits of privatization, as well as several disadvantages and drawbacks, the CFO concluded by stating the privatized system showed significant overall improvements for Kansas child welfare and has served Kansas children better than the previous system. While the current system is not perfect, the foundation that has been established will drive continual performance improvement. The CFO noted one of the recent issues has been staff turnover, and KVC has initiated numerous strategies to support staff and improve recruitment, as well as launching initiatives to increase foster family and relative resources for children.

Next, the Deputy Secretary of Family Services for DCF provided further information regarding the background and current state of foster care privatization in Kansas. He explained a class action lawsuit filed in the 1990s and the resulting settlement may have led to a desire to address concerns and make positive changes in the system through privatizing child welfare services. Following the announcement of the decision to privatize in 1995, family preservation was privatized in July 1996, adoption services in October 1996, and foster care services in February 1997. The Deputy Secretary noted federal welfare legislation and oversight have increased over the past 20 years, with Kansas successfully

completing two PIPs during that time and currently developing a third PIP.

The Deputy Secretary listed positive developments resulting from privatization, including family preservation services becoming available statewide; the establishment of an adoption specialist network and enhancement of the ability to address permanency needs; greater foster care outreach and community engagement and ownership of services; greater consistency, accountability, and streamlining of services; and successful exit from the settlement agreement ending the class action lawsuit.

The Deputy Secretary noted privatization also presents challenges, including contract design; lack of clearly defined roles for state staff and contractor staff; period of adjustment between contracts and providers; difficulty in changing providers in the middle of a contract if the contractor is not performing satisfactorily; and overlap and duplication of services. He noted the question of whether privatization is currently more effective and efficient than a hypothetical non-privatized system is difficult to answer, but the upcoming third part of the LPA report may help provide some information in this regard.

Finally, a representative of the Kansas Chapter, National Association of Social Workers (KNASW), provided the Committee with a social worker's perspective and information regarding the history of foster care privatization in Kansas. When the system was privatized in 1996, one goal was to eliminate multiple workers involved with a family. However, stress and crisis in the current system means that children in state custody are outlasting their social workers, creating loss and disappointment for the child and their caretakers. Long-term tenure of staff is the most crucial element of a strong child welfare system, as well as an extensive selection of services to strengthen the family.

The KNASW representative stated that in 1989, a lawsuit was filed regarding the child welfare system that was resolved in 1993 through a settlement agreement prior to the child welfare privatization. The agreement expired June 30, 2002, about six years into privatization, with about 80 percent of the more than 130 actions required

of the State under the agreement met. Two of the areas of action that did not reach compliance were services to meet the child's needs and reinforce family strengths and implement and maintain information on worker caseloads.

The KNASW representative stated staffing continues to be problematic due to high staff turnover. Child welfare cases are complex and caseloads must be realistic to be effective. Child welfare work involves three things: the case plan; services; and regular visits. Constant turnover of social workers makes the system dysfunctional. Stabilizing the staff will stabilize the system.

To address staffing stability, the KNASW representative suggested the following actions:

- Investigate the scope of social worker turnover in both DCF and contractors, including caseloads;
- Determine the reasons social workers are leaving;
- Implement a multi-year focus on recruitment and retention of social workers; and
- Develop long-term incentives, supports, career path (advancement), professional development, ongoing training, supervision, student loan forgiveness, and competitive compensation.

Next, the Committee addressed questions to the conferees who had testified during the privatization topic.

In response to a request for detail on the number of monthly visits that had not occurred, a St. Francis representative stated St. Francis' audit showed about 93 percent of visits occurred. A KVC representative stated over 90 percent of visits occurred, but the documentation was not as good as they would have liked, and they are no longer pre-populating information in the reports. She also noted there are times that monthly visits cannot occur due to the child not being available.

In response to a question regarding whether any financial penalties are in place for failure to make monthly visits, a DCF representative stated there are no financial penalties. Once the issue came to light, DCF conducted a documentation training for everyone with contact with clients or documentation responsibilities and met with both contractors to place them on corrective action plans.

In response to a question regarding reconciling disagreements in case plans when social workers transition, St. Francis and KVC representatives stated they use a team model to try to reduce the trauma of a transition.

In response to a question regarding whether investigations by younger social workers are contributing to the high numbers of children entering the system, a DCF representative stated both experienced and newer workers are valuable, and DCF has been working with the contractors to improve retention.

In response to a question regarding how families can be helped, the KNASW representative stated the University of Kansas has a multi-year grant regarding recruitment of social work students for child welfare. Families need services to address their needs. New social workers need supervision by and interaction with senior staff.

In response to a question regarding missing children, a KVC representative stated there were 36 out of 3,613 children missing as of the previous day. A St. Francis representative stated missing children are one reason a monthly visit may not occur, as well as illness or vacation.

Committee members requested information regarding the previous contracts awarded for child welfare, which KLRD staff provided, and information regarding the licensure numbers for social workers each year, which KLRD staff stated would be requested from the BSRB.

The Chairperson asked for suggestions for improvement from the conferees. A DCF representative suggested focusing on providing services needed by children before they enter the system, although this can be difficult due to the lack of federal funding for this area. St. Francis

representatives agreed with this suggestion, noting family preservation services are state funded, rather than federally funded, and challenges will continue as long as people are coming in the “front door” of the child welfare system. They also suggested looking into federal Family First legislation, which could provide more flexibility with regard to Title IV-E funding.

A Committee member asked whether DCF or St. Francis representatives had made contact with the grandparent who had expressed concerns before the Committee the previous day. A St. Francis representative stated he had asked for and received a full report on the case and intended to follow up with the grandparent. Another St. Francis representative noted they had a consent form that could be used for legislators to obtain further details regarding particular cases. The Committee member noted the grandparent had driven to the meeting to provide her story to the Committee. The member then expressed concern that no one had spoken with the grandparent yet, and suggested an issue that needed to be addressed was that a grandparent had been excluded from the system that is supposed to be a safety net.

Duties, Qualifications, and Selection of Foster Families

On this topic, the Committee first heard from a private citizen expressing concern regarding the loss of funding for CRBs across Kansas, especially in Sedgwick County. She stated CRBs can help process juvenile and CINC cases more quickly while strengthening judicial oversight. In response to a question, the citizen stated the CRB in Shawnee County is currently fully funded and effective. A Committee member suggested a CRB in Sedgwick County could be useful to look into some of the issues being presented by constituents.

A representative of FosterAdopt Connect noted concerns from foster parents regarding reprimands, misunderstandings, and being left out of meetings and decisions while trying to advocate for the best interests of the children in their care. Some foster parents fear retaliation in the form of removing a child placed in their home or losing their license. She urged that foster parents be subject to a rigorous assessment process, but that they not be selected solely based on ethnicity or religious preferences. The conferee stated foster

parents stop fostering not because of a child, but rather because of issues with the system. She suggested foster parent retention would be improved through increased support to foster parents, including training, support groups, increase in daily reimbursement rates, placement stability, and the passing of a Foster Parent Bill of Rights. She also suggested a workgroup could improve the system by allowing greater clarity and transparency.

In response to questions, the representative of FosterAdopt Connect recommended a program in Johnson County called “CINC 101” that helps parents who may be facing the CINC process. She also noted FosterAdopt Connect raises its own funding and receives no funding from the State of Kansas.

Next, a representative of St. Francis presented information regarding that agency’s placement of children and recruiting and training of foster parents. St. Francis has responsibility for 3,320 children. Of these, 34 percent are placed with relatives, 58 percent are placed in foster homes, and the remaining 8 percent are placed elsewhere. Placement close to children’s families, friends, relatives, school, and home community is a high priority. Becoming a foster parent is a significant commitment, and the licensure process averages six to eight months. The family must complete training and be recommended by the trainer, as well as complete a thorough assessment of the home by St. Francis and a licensing visit by DCF. Generally, only 15-20 percent of the families making an initial inquiry are ultimately licensed. St. Francis also works to identify families who are considered kin to children or who have significant relationships with the child for placement. Non-related kin families must be assessed and are expected to meet all regulations to be issued a foster home license for the specific child.

St. Francis foster families receive a monthly training opportunity regarding care of children who have been abused or neglected, as well as ancillary training on other complicating factors. Support groups have begun in some areas. St. Francis also provides a website as an additional training vehicle and to facilitate communication between St. Francis, the foster family, and specific workers. Additionally, St. Francis provides a training library with DVDs, videos, books, and

magazines. Each foster parent must complete a universal precautions and a medication administration course, and training will now include an expanded section on psychotropic medications. Foster parents must retrain in medication administration every two years. St. Francis also expects foster parents to serve as mentors for birth parents in working for the best interest of the child and family and to assist in achieving permanency through reunification, legal guardianship, or adoption with another family.

In response to questions, the St. Francis representative stated St. Francis conducts the initial home inspections during training *via* a licensing specialist and instructs the family if there are issues to address. Regarding annual loss of foster homes, the representative stated the most homes lost are homes that were licensed for a specific child's placement, but homes are lost for various reasons. Some homes are lost due to adoption, which St. Francis considers a win-win scenario. Regarding the affect of Kansas legislation on St. Francis' funding, the representative stated legislation may affect the approach the agency takes. The representative offered to follow up on concerns from constituents regarding relatives who did not receive placements, including grandparents.

Next, the Committee heard from the Vice President of Operations for KVC Kansas. The Vice President reviewed the expectations KVC Kansas has for foster parents and outlined a list of more than 25 qualifications a foster parent must meet. She noted foster parents are mandatory reporters and thus must report suspected child abuse or neglect for any child or youth, whether or not the child is in care. Each foster family must provide a minimum of three references, including two non-family-members, and each reference must complete a reference questionnaire. Each KVC Kansas foster family must have a minimum of three positive references and complete all licensing requirements before taking placement of a child. The Vice President then reviewed a list of the various support and training services KVC Kansas provides its foster families. KVC has four hours in which to take physical custody of a child after receiving a referral from DCF, and its admissions department operates 24/7/365. The Vice President reviewed KVC Kansas' placement and priority goals, including placement with

relative or kin, minimal moves before achieving permanency, placement nearest home, and keeping siblings together. To achieve these goals, KVC Kansas gathers as much detailed information about the child as possible, maintains and searches an internal Matching Families Database, and sends referrals to all child placing agencies within its network, trying to find the most optimal placement. KVC Kansas also utilizes the evidence-based Structured Decision Making System for Placement Support from The Children's Research Center. KVC Kansas has seen a continued increase in the number of foster families it sponsors: from 503 in October 2014 to 571 in October 2015 and 616 in October 2016.

Next, the Deputy General Counsel for DCF presented observations on qualifications, selection, and duties of Kansas foster families from the perspective of the DCF Foster Care and Residential Facility Licensing Division, which he supervises. The core mission of the Licensing Division is to ensure foster parents and foster homes are safe for children in foster care.

Basic requirements to be a foster parent include being 21 years of age, being able to provide safe transportation for foster children, and having sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with applicable regulations.

Ensuring compliance with health and safety requirements for foster homes is a core function of the Licensing Division. Requirements are found in statutes and regulations, and include home infrastructure standards; cleanliness requirements; compliance with applicable codes; pet and animal requirements; and safety provisions regarding medications, household chemicals, and potentially dangerous instruments or tools and firearms. There also are space and privacy standards for bedrooms and safety requirements for swimming pools and hot tubs. The maximum number of foster children in any one home is four, although exceptions may be made in certain cases, particularly to keep large groups of siblings in the same home. The granting of an excessive number of exceptions to this requirement was identified by the Licensing Division upon transfer from KDHE in July 2015 and again by the LPA audit. DCF began to try to identify solutions to this issue even when the audit

was just beginning, and has determined that sufficient information regarding capacity is needed so alternative foster home placements with sufficient capacity may be quickly identified by the Licensing Division. [Note: further information regarding these efforts may be found under the “Agency Overview” portion of this report.]

Prospective foster families must be sponsored by a CPA, complete the application, and prepare the home for inspection by the Licensing Division. A foster parent must complete a training program called “Partnering for Safety and Permanence/Model Approach to Partnership in Parenting Program” (PS-MAPP), which consists of 30 hours of training over a 10-week period.

Prospective foster parents (as well as any other person ten years of age or older who resides, works, or regularly volunteers in the foster home) must be fingerprinted and pass a background check. There are about 100 criminal offenses that disqualify a person from being a foster parent or residing, working, or volunteering in a foster home. Persons also are disqualified by being listed on the DCF abuse and neglect registry by having a child removed from their home as a CINC or by having had parental rights terminated. A prospective foster parent also must undergo a health assessment.

The Deputy General Counsel noted the development of a geographic information system as part of the native licensing system software, which is a promising tool to assist with placement decisions. The Licensing Division is collaborating with PPS to ensure greater usefulness of this tool across divisions.

The Deputy General Counsel stated regarding the duties of foster families, foster parents must conduct themselves in a way to advance the best interests of the health, safety, and welfare of the foster children. Foster children must be integrated into the day-to-day family life in an honest, loving manner, and as much normalcy must be preserved as possible. Foster parents must provide supervision appropriate to the individual child’s age, maturity, risk factors, and developmental level. Physical and material needs must be met, and there must be an adequate supply of play equipment, materials, and books. Foster parents

must provide nutritious food, clean clothing and bedding, and birthday and holiday gifts.

Foster parents must be active participants in the child’s case plan and implement assigned provisions. They also must agree to a written policy indicating methods of guidance appropriate to the age of the child. Certain punishments are prohibited. Foster parents must ensure school attendance and serve a mentoring role to help each child learn basic life skills.

In response to the FosterAdopt Connect representative’s comment under the Foster Care Contractors: effectiveness and oversight topic regarding the E-CAP system designed at the University of Kansas, the Deputy General Counsel stated DCF is using a system designed by a vendor with whom DCF has a master purchase/service agreement, which allows DCF to implement the software at a lower cost. Also, KDHE had already made significant progress in implementing the system before the transition.

In response to a Committee member’s request to provide additional information regarding the high percentage of capacity exceptions granted, the Deputy General Counsel stated it can be difficult to understand in the abstract. The exceptions are granted for six-month periods, so some of the requests were repeats. The exceptions are not rubber-stamped; they are individually reviewed by senior staff in a consultative manner. Conditions such as more frequent visits may be required at the foster home when the exception is granted. He stated the fundamental issue driving the exceptions is the knowledge of capacity in the system, which the new software system is intended to address.

In response to a question regarding the new financial assessments, the Deputy General Counsel stated the policy advisory was effective September 1, and the assessment was chosen instead of a credit check as a better way to gain knowledge of what the situation is in the foster home. He noted sometimes foster parents need a chance to explain why financial circumstances are not what they appear.

In response to a Committee member’s statement that constituents are concerned the

financial assessment process requests bank statements and the assessment will be constantly changing, the Deputy General Counsel stated the Division is in an ongoing learning process and has already revised the policy and form in response to concerns.

In response to a question regarding who must take the MAPP training, the Deputy General Counsel stated all foster parents must have the training. He noted only relative placements do not require licensure.

A representative of Children's Alliance of Kansas provided information to the Committee regarding the process for becoming a foster parent in Kansas, including the MAPP training programs that Children's Alliance provides under contract with DCF. Prospective foster or adoptive parents complete a 30-hour, 10-week program called "Trauma-Informed Partnering for Safety and Permanency – Model Approach for Partnerships in Parenting" (TIPS-MAPP) and must also complete first aid and cardiopulmonary resuscitation (CPR), medication administration, and universal precautions trainings. Families must pass background checks and must not have a conviction on the prohibitive offenses list. Homes must meet licensing guidelines and families must demonstrate sufficient income. The representative noted the national MAPP program is based in Kansas and receives high ratings in federal reviews. She expressed concern that the juvenile justice system reforms in 2016 SB 367 may increase demand on the child welfare system at the same time as Medicaid reimbursement rates have been reduced, child placing agency rates have not increased, and prevention and early intervention services for mental health, addiction, and financial security have been scaled back. She noted providers also must adjust to new unfunded federal mandates such as the proposed overtime rules. She urged investment in an integrated, comprehensive, flexible system of support that includes appropriate services for prevention, stabilization, intervention, and treatment.

Working Group Evaluation

The Committee next received an overview of foster care workgroups, task forces, and committees, in Kansas and in other jurisdictions, from KLRD staff. Staff noted the Judicial

Council's Juvenile Offender/Child in Need of Care Advisory Committee and a list of Kansas foster care workgroups, task forces, and committees provided by DCF to the 2015 Committee. Staff then described the formation and efforts of the 2015 Kansas Juvenile Justice Workgroup (Workgroup). This Workgroup was formed by leaders of the three branches of Kansas government and charged with developing policy recommendations for improving the juvenile justice system. It consisted of 17 representatives from all parts of the juvenile justice system, as well as legislators, and received technical, data, and staff assistance from the Public Safety Performance Project of The Pew Charitable Trusts (Pew) as well as the Crime and Justice Institute at Community Resources for Justice. The Workgroup met monthly from June through November 2015 and also conducted roundtable discussions with key system stakeholders. The Workgroup developed 40 consensus-based recommendations, many of which were incorporated in 2016 SB 367, which passed the Legislature and was signed by the Governor. The provisions of SB 367 will become effective in stages, with some provisions taking effect July 1, 2016, and some provisions taking effect as late as July 1, 2019. Staff provided some additional detail regarding the support the Workgroup received from Pew.

Staff then reviewed 2016 HB 2585, which would have established a foster care oversight task force. The task force would have had responsibilities similar to the charge to the Special Committee and would have consisted of 17 members, including 12 legislators and 5 gubernatorial appointees. The Governor's appointments would have included a family law attorney, a district judge with a family law docket, a CASA representative, a guardian *ad litem*, and a member of the Kansas Children's Service League. The bill would have provided for meeting days, compensation, and support staff. It would have required the task force to submit an annual written report and required DCF to provide certain data and information to the task force on request. The task force would have sunset on January 1, 2019. The 2016 House Committee on Children and Seniors recommended HB 2585 be passed as amended, but the bill died at the end of the 2016 Session without further action.

Finally, staff reviewed a 2011 Missouri task force on recruitment, licensure, and retention of foster and adoptive homes and a 2015 Minnesota foster care workgroup formed to address concerns about the foster care system and provide recommendations for improvement.

In response to a question, staff stated members of the Kansas Juvenile Justice Workgroup did not receive compensation for their work on the Workgroup, although state employees on the Workgroup presumably received their usual salaries for any Workgroup efforts occurring during business hours.

CONCLUSIONS AND RECOMMENDATIONS

The Chairperson opened up Committee discussion by asking for recommendations to be considered by the Committee. Members suggested reintroducing 2016 HB 2585 and considering Representative Ward's proposal regarding the creation of an oversight committee; considering a CRB in Sedgwick County; considering Mary Martin's proposal regarding biological parent visitation, travel vouchers, and placement of children in the county where the case originated; considering concerns raised by follow-up to hotline calls, performance measures, social worker turnover, and verification of monthly in-person visits; checking whether concerns expressed before the 2015 Committee by law enforcement were addressed; and recommending LPA consider examining possible duplication or overlap of services and the cost of such duplication or overlap.

The Chairperson noted the Committee's report would summarize the Committee's work and therefore include a lot of the issues that had been raised before the Committee, whether or not the Committee developed a recommendation for every issue. He noted the privatization of foster care in Kansas appears to have been more of a shift over time rather than an instant system change, and it appears some of the responsibilities for oversight are now shifting back toward the agency, and further shifts of oversight to the agency should be explored. He noted lack of federal funding for family preservation also seemed to be an issue, as well as children being taken into state custody

because their parents are in poverty rather than for abuse and neglect.

The discussion continued with members suggesting consideration of a recommendation that DCF explore the potential for increasing the number of contractors and the potential benefit of increased contractors and a recommendation that DCF provide a yearly report to the Legislature on foster care issues.

A member expressed concern over the response rate to the LPA survey and suggested exploring methods to increase the response rate.

A member requested an update from Communities in Schools of Mid-America regarding their work in elementary schools. A representative provided a written report to Committee members following the meeting.

The Committee identified the following as its highest concerns in discussing and adopting its recommendations:

- The response to concerns regarding repeated hotline calls and the follow-up (or lack thereof) to these calls;
- The need for DCF to explore performance measures tied to penalties and incentives for contractors;
- The need to gather data on social worker turnover (leaving social work altogether) and churn (leaving DCF and contractors to work for another social work organization);
- The need to find methods to truly verify monthly in-person visits, such as Florida's photo verification that utilizes date, time, and GPS stamps;
- The need to create more state oversight of the foster care system;
- The need to improve family preservation programs even if federal money is not available for such programs;

- The need to ensure children are not being removed from the home and placed in state custody in cases where the only issue is poverty rather than abuse or neglect; and
- The system operate as efficiently as possible.

The Committee adopted the following recommendations:

- A House bill be introduced containing the language of 2016 HB 2585, as amended by the House Committee on Children and Seniors, establishing a foster care oversight task force, with date changes as required;
- The use of CRBs be encouraged in CINC cases and legislative standing committees examine expanding the statutory scope of such boards;
- The right of biological parents and grandparents to visitation with children and grandchildren be affirmed, including visitation in their hometown with children and grandchildren who are in out-of-town placements, with the children's travel expense being the responsibility of the contractor;

- The Legislature address, through standing committees or special committees, the legislative post audit findings on foster care and adoption in Kansas as well as the concerns raised through the audit and the actions being taken by DCF to address those concerns;
- DCF investigate the value of additional vendors for foster care programs;
- DCF report annually to a standing committee of the Senate and a standing committee of the House; and
- The Legislative Post Audit Committee consider addressing the Special Committee's concern regarding the low response rate to the LPA survey of public employees and employees of contractors in the foster care and adoption audit.

Proposed Legislation

The Committee recommended a House bill be introduced containing the language of 2016 HB 2585, as amended by the House Committee on Children and Seniors, establishing a foster care oversight task force, with date changes as required.